

limit of one month from the date of this letter or within the time remaining in the response period of the last office action, whichever is longer. The Examiner stated that no extension of this time limit may be granted under either 37 C.F.R. 1.136 (a) or (b), but the period for response set in the last office action may be extended up to a maximum of six months.

In response, applicants respectfully traverse the Examiner's provisional obviousness-type double patenting rejection. Applicants maintain that the content of claims 1-20 and 44-52 in the subject application differ from the content of claims 44-56 in copending U.S. Serial Nos. 08/477,147 and 08/481,809. In the subject application, applicants' claims are directed to a vaccine for stimulating or enhancing in a subject to which the vaccine is administered, production of an antibody.

Applicants further point out that for a provisional double-
~~patenting or obviousness-type double patenting rejection, M.P.E.P.~~
~~this time limit may be granted under either 37 C.F.R. 1.136 (a) or (b).~~
§804 requires that the:

'provisional' double patenting rejection should continue to be made by the Examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the Examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the application(s) into a double patenting rejection at the time the one application issues as a patent.

Therefore, applicants maintain that even if the Examiner continues to conclude that the claims of the subject application conflict with the claims of U.S. Serial Nos. 08/477,147 and 08/481,809, the provisional rejection should be withdrawn in view of applicants' arguments which overcome the other rejections

Philip O. Livingston and Friedhelm Helling
U.S. Serial No.: 08/477,097
Filed: June 7, 1995
Page 3

of this application under Sections 101, 103 and 112. Thus, the subject application should be allowed to issue.

In view of the foregoing statements, applicants respectfully request that the Examiner reconsider and withdraw the rejection based on provisional obviousness-type double patenting.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if any other fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Albert Wai Kit Chan

John P. White
Registration No. 28,678
Albert Wai-Kit Chan
Registration No. 36,479
Attorneys for Applicant(s)
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400